

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
FRANCIS J. HARVEY, JR. and
JEAN P. WILHELM,

Civil Action No.
07-Civ-6763 (LAP)

Plaintiffs,

-against-

320 OWNERS CORP. and CHARLES LOWERY,
in his capacity as President of 320 Owners Corp.,

**AFFIDAVIT IN FURTHER
SUPPORT OF DEFENDANTS'
CROSS-MOTION TO DISMISS
AND IN OPPOSITION TO
PLAINTIFFS' MOTION
FOR INJUNCTIVE RELIEF**

Defendants.

-----X

STATE OF NEW YORK)
)
 ss.:
COUNTY OF NEW YORK)

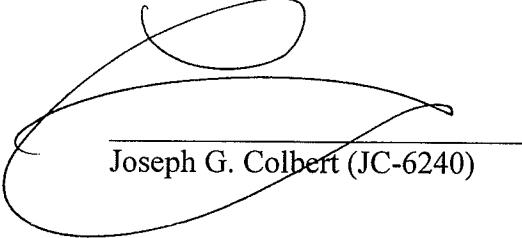
Joseph G. Colbert, an attorney duly admitted to the United States District Court
for the Southern District of New York being duly sworn, deposes and says:

1. I a member of Kagan Lubic Lepper Lewis Gold and Colbert LLP,
attorneys for Defendants 320 Owners Corp. (the "Cooperative") and Charles Lowery. I
submit this affidavit in further support of Defendants' cross-motion to dismiss the
Complaint and in opposition to Plaintiffs' motion for a preliminary injunction.

2. A true and accurate copy of the proprietary lease between Plaintiffs and
the Cooperative is annexed as Exhibit A.

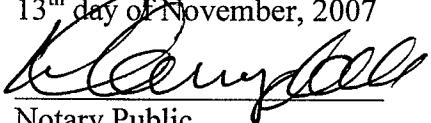
3. A true and accurate copy of the Cooperative's By-Laws are annexed as
Exhibit B.

4. According to my review of the Cooperative's corporate documents, the proprietary lease provision on termination for objectionable conduct has remained the same since the Cooperative was converted to cooperative ownership in 1977. See Exhibit A, at Paragraph 31.



Joseph G. Colbert (JC-6240)

Sworn to before me this
13th day of November, 2007



Denise M. Campbell

Notary Public

DENISE M. CAMPBELL
Notary Public, State of New York
No. 01CA6006738
Qualified in New York County
Commission Expires August 14, 2010

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FRANCIS J. HARVEY, JR. and
JEAN P. WILHELM,

Civil Action No.
07-Civ-6763 (LAP)

Plaintiffs,

-against-

320 OWNERS CORP. and CHARLES LOWERY,
In his capacity as President of 320 Owners Corp.,

Defendants.

X

**AFFIDAVIT IN FURTHER SUPPORT OF DEFENDANTS'
CROSS-MOTION TO DISMISS AND IN OPPOSITION TO PLAINTIFFS' MOTION
FOR INJUNCTIVE RELIEF**

KAGAN LUBIC LEPPER LEWIS
GOLD & COLBERT, LLP
Attorney for Defendants
200 Madison Avenue, 24th floor
NEW YORK, NEW YORK 10016-4001
(212) 252-0300